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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing
and
Billing Format

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Public Service Telephone Company ("Public Service"),¹ by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, Public Service seeks temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement"), Section 64.2401(b) regarding description of charges (the "TIB Description Requirement") and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB Inquiry Contact Requirement") (collectively, the "TIB Requirements").³ Public Service seeks this waiver until February 1, 2000.

¹ Attachment A contains the declaration of Austin E. Guinn III, Manager, Regulatory and External Affairs for Public Service. The declaration bears a facsimile signatures. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ." 47 C.F.R. § 64.2401(b), in turn, states that:

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Public Service is a member of the United States Telecom Association ("USTA"). As such, Public Service recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.⁴ Moreover, Public Service recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Public Service requests a waiver of the TIB Requirements until February 1, 2000.

Until the waiver requested expires, Public Service will continue to work diligently on the

(Footnote Continued from Previous Page)

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

Finally, 47 C.F.R. § 64.2401(d) states that

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁴ See Public Notice, DA 99-1616, released August 13, 1999.

software billing system changes necessary to comply with the TIB Requirements. Moreover, even after the waiver expires, the customer representatives of Public Service will continue to provide assistance to customers with questions concerning charges from particular carriers and for particular services. Accordingly, Public Service respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

Public Service provides exchange and exchange access services to approximately 11,500 lines in Georgia. Public Service is a rural telephone company under the Communications Act of 1934, as amended.

Public Service relies upon its internal resources for billing system services (i.e., software and support). When this system requires modifications (e.g., in order to address regulatory or other issues), Public Service performs such modifications itself, including all necessary software modifications. In July, 1999, Public Service began addressing the FCC's various TIB requirements in order to ascertain what billing system changes would be required to ensure Public Service's compliance. Accordingly, Public Service included these activities as one part of its respective Year 2000 issue checklist associated with all of its computer-based systems.

Although TIB compliance efforts were undertaken, Public Service has now determined that it will not be able to comply with the TIB Requirements with respect to billing for charges for casual calling and alternate service providers (collectively referred to as "AOS providers")(i.e., carriers other than the presubscribed "1+" carrier of the customer), and with respect to the charges that Public Service currently bundles on its bills under the classification of "Local Service."

A. Compliance Issues with Respect to the TIB Separate Provider Requirement and the TIB Inquiry Contact Requirement

The need for the temporary, limited waiver of the TIB Separate Provider Requirement and the TIB Inquiry Contact Requirement arise in connection with Public Service's AOS provider billing. Public Service receives data from the AOS provider's clearinghouse, which, in turn, are aggregated in one section of Public Service's end user bill. This bill section may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle. The charges that Public Service receives are sorted by customer and by date and time of that customer's usage. Public Service's existing billing system software does not, however, sort these call records by AOS provider,⁵ nor is the software capable of placing the name of the AOS provider or that AOS provider's toll free number on the bill.⁶ As a result, the software modifications underway must accommodate varying levels of screening and identification of an AOS provider as well as provide for the name and contact number of the AOS provider. These demands will, in turn, affect the processing time associated with rendering the bill.

⁵ Public Service notes that the instances where AOS providers are not separated on the bill should be minimal. Based on Public Service's recent experience, the majority of the customers being billed for AOS service provider calls make calls using only one (1) such provider. The instances where charges for two (2) or more AOS service providers arise on a customer's bill occur in less than approximately two percent (2%), or typically less than 230 of the approximately 11,500 end user bills that Public Service renders in a given month.

⁶ Although Public Service typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, Public Service is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, in Public Service's experience, customer inquiries regarding AOS provider charges are minimal.

Although Public Service is working on the software modifications required to update its billing system, testing will need to occur when these updates are completed in order to ensure TIB rule compliance. Accordingly, it will be technically infeasible for Public Service to comply with the November 12, 1999 date by which the TIB Separate Provider Requirement and TIB Inquiry Contact Requirement are scheduled to go into effect.⁷ Consistent with the implementation of other TIB-required billing software changes, Public Service submits that compliance with these TIB Requirements should be possible by February 1, 2000.

B. Compliance Issues with Respect to the TIB Description Requirement

With respect to the TIB Description Requirement, Public Service is also in the process of developing the software necessary to disaggregate the charges and the services that currently are included within the bill's "Local Service" classification. Currently, charges for these services (e.g., custom calling features) are aggregated on the bill, and no description of these services is provided. Once the software is fully developed to comply with this TIB rule, the bills will then need to be tested in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."⁸ Even in the absence of this additional bill detail, however, Public Service has had minimal customer complaints regarding its charges for other local services.

⁷ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

⁸ 47 C.F.R. § 64.2401(b).

As with the TIB Separate Provider Requirement and TIB Inquiry Contact Requirement, Public Service does not believe that it can complete the necessary software modifications and successfully test such software by November 12, 1999. Public Service anticipates, however, that it can accomplish these tasks by February 1, 2000.

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these facts and circumstances, Public Service respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Public Service is making diligent efforts to comply with the TIB Requirements effective November 12, 1999. However, Public Service's compliance with the TIB Requirements is not feasible by this date in light of the various billing system software upgrades being developed and the need for successful testing of these upgrades. Moreover, the Commission's November 12, 1999 implementation date for the TIB Requirements is further complicated by efforts to address Year 2000 issues.⁹ Public Service anticipates that compliance with the TIB Requirements should be possible by February 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹⁰

⁹ Accord USTA Petition at 4, 9, and 11.

¹⁰ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

Public Service also respectfully submits that the public interest would be served by a grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹¹ The software changes required by Public Service's billing system clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"¹² are not applicable here. Public Service is working toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that Public Service is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of Public Service; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by Public Service.

Second, the Commission has already recognized that certain aspects of the TIB implementation process require a blanket waiver for all companies.¹³ Consistent with the underlying rationale of that waiver, the implementation challenges confronting Public Service with respect to

¹¹ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

¹² Id. at para. 16.

¹³ See n. 7, supra.

complying with the TIB Requirements likewise warrant this brief delay. This is particularly true where the brief delay requested by Public Service will help promote efficiency in the enhancements of its billing system without incurring unnecessary expense.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify charges and inquire about a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, Public Service will continue to provide customer service assistance regarding billing inquiries and questions. Public Service will also continue to provide its local telephone number on the bill in order to allow customers to contact them about AOS provider charges or the charges for "Local Service." Likewise, when a customer questions an AOS provider charge, Public Service will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, Public Service notes that, in the absence of this limited waiver of the TIB Separate Provider Requirement and TIB Inquiry Contact Requirement, the ability of the Public Service to bill for isolated customer-originated traffic on behalf of AOS providers would be in jeopardy. Facing the risk of non-compliance with the TIB Separate Provider Requirement and TIB Inquiry Contact Requirement, Public Service may be forced to consider terminating their billing relationship with the AOS providers. This, in turn, may increase the cost to the AOS provider of billing, thereby

inhibiting the continued development of a competitive interexchange service marketplace.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, the concerns expressed by Public Service's consumers regarding either AOS provider charges or Public Service's "Local Service" have been minimal. Moreover, Public Service anticipates that this experience will not change during the time that the requested waiver is in place.

III. Conclusion

Because Public Service is technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until February 1, 2000 will ensure that Public Service can implement and successfully test the billing system software upgrades required to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by Public Service as it continues to provide customer assistance and responsiveness when questions are received regarding the charges from particular carriers and for particular services.

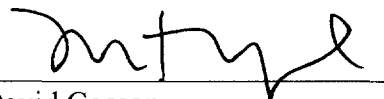
Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Public Service requests a waiver of the

requirements of 47 C.F.R. §§ 64.2401(a)(2), 64.2401(b) and 64.2401(d) until February 1, 2000.

Respectfully submitted,

Public Service Telephone Company

By

A handwritten signature in black ink, appearing to read 'D. Cosson', written over a horizontal line.

David Cosson

Thomas J. Moorman

Margaret Nyland

Its Attorneys


Kraskin, Lesse & Cosson, LLP
2120 L Street, N. W., Suite 520
Washington, D.C. 20037
202/296-8890

November 3, 1999

**Declaration of Austin E. Guinn III
Manager, Regulatory and Industry Affairs
Public Service Telephone Company**

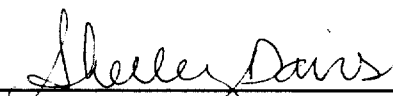
I, Austin E. Guinn III, Manager, Regulatory and Industry Affairs for Public Service Telephone Company ("Public Service"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Public Service is true and accurate to the best of my knowledge, information, and belief.

Date 11-3-99


Austin E. Guinn III
Manager, Regulatory and External Affairs

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Public Service Telephone Company was served on this 3rd day of November, 1999 by hand delivery to the following parties:



Shelley Davis

Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW Room 5-C450
Washington, DC 20554

Lisa Zaina, Acting Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-B303
Washington, DC 20554

Glenn T. Reynolds, Chief
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-A847
Washington, DC 20554

David Konuch, Attorney
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C313
Washington, DC 20036

International Transcription Services
1231 20th Street, NW
Washington, DC 20554